



UNITED STATES V. STERN ENTERPRISES, INC., ET AL.,
CASE NO. 1:92CV1488, N.D. OHIO (JUDGE ALDRICH)

CHRONOLOGY OF EVENTS

July 23, 1992	Complaint filed seeking injunctive relief and civil penalties under the Clean Air Act
November X,	Stern defendants sign letter of intent
January X, 1993	Stern defendants sign contract with Nova Environmental, Inc. (Nova) to complete all asbestos abatement and demolition by the end of 1993
April 7, 1993	U.S. and Stern defendants enter into Stipulation and Order regarding ongoing abatement and demolition activities at the facility, after inspections by U.S. EPA in March of 1993 indicate multiple new violations of the asbestos NESHAP by Nova
May 7, 1993	Stern defendants agree to tentative settlement, requiring them to pay civil penalty of \$205,000 and to complete demolition of facility by April 1, 1994
June 4, 1993	letter sent to court advising court of tentative settlement
June 7, 1993	court dismisses case conditionally, pending entry of Consent Decree
July 22, 1993	draft consent decree incorporating April 1, 1994, deadline for completing demolition sent to defendants
September 10, 1993	Electro-Analytical Laboratories, a contractor hired by Stern defendants to assist in asbestos abatement at the facility, provides Stern defendants with a 3 page report of its June 9, 1993, preliminary inspection of PCB contamination at the facility
September 23, 1993	at request of Stern defendants, U.S. agrees to extend deadline for completing demolition from April 1, 1994, to September 30, 1994
November 4, 1993	Stern defendants authorize American Geosciences, Inc. (AGI) to begin work to remove PCB contaminated water from basement of building 12
November 8, 1993	Tom Buchan from Ohio EPA issues Field Citation to Stern defendants based upon his Nov. 8, 1993, inspection of facility for compliance with regulations governing PCBs
November 15, 1993	Richard Stern signs Notification of PCB Activity form

December 7, 1993	Stern defendants request that injunctive relief of proposed Consent Decree be limited solely to removal of asbestos and that demolition requirement be eliminated
December 13, 1993	U.S. rejects Stern defendants' request to eliminate demolition requirement from proposed Consent Decree
January 29, 1994 ?	Stern defendants sign Consent Decree that requires them to complete demolition of the entire facility by September 30, 1994
May 18, 1994	Consent Decree lodged with the court
July 18, 1994	Consent Decree entered by the court
July 22, 1994	Stern defendants move court to modify Consent Decree to eliminate requirements that entire facility be demolished
August 5, 1994	U.S. files memorandum in opposition to motion to modify Consent Decree
August 17, 1994	Court denies motion to modify consent decree in an endorsed order
August 18, 1994	Stern defendants pay \$205,000 civil penalty
September 29, 1994	Stern defendants first invoke force majeure provision of consent decree
October 14, 1994	U.S. requests more complete documentation to support first force majeure claim
November 21, 1994	U.S. receives additional documentation from Stern defendants
February 1, 1996	U.S. denies first force majeure claim
February 13, 1995	Stern defendants invoke dispute resolution provision of Consent Decree with respect to denial of first force majeure claim
February 24, 1995	U.S. rejects positions asserted by Stern defendants under dispute resolution process
March 15, 1995	Stern defendants request court hearing on U.S. decision to reject first force majeure claim
March 29, 1995	U.S. files memorandum in opposition to Stern defendants' request for court hearing
?	Court hearing on first force majeure claim set for May 19, 1995,

postponed on joint motion of U.S. and Stern defendants

May 18, 1995	Stern defendants invoke force majeure provision of consent decree for the second time
May 31, 1995	U.S. requests more complete documentation to support second force majeure claim
August 7, 1995	U.S. again requests more complete documentation to support second force majeure claim after having received no response to its May 31, 1995, request
August 9, 1995	Stern defendants request a stay of stipulated penalties for a period of approximately 3 or 4 weeks to complete PCB remediation in the basement of building 12
August 11, 1995	U.S. responds to request for stay of stipulated penalties, indicating that counsel for the U.S. will recommend that Assistant Attorney General approve such a stay in the accrual of stipulated penalties, but only for the brief 3 or 4 week time period in question
September 1, 1995	U.S. receives additional documentation from Stern defendants in support of second force majeure claim
October 20, 1995	U.S. advises Stern defendants that it is still evaluating merits of second force majeure claim
November 21, 1995	U.S. receives documents subpoenaed from Sunpro, a contractor hired by Stern defendants to assist in remediating PCB contamination at the facility
December 12, 1995	U.S. receives documents subpoenaed from American Geosciences, another contractor hired by Stern defendants to assist in remediating PCB contamination at the facility
January 30, 1996	Stern defendants invoke force majeure provisions of the Consent Decree for the third time
February 2, 1996	U.S. requests documentation to support third force majeure claim
February 9, 1996	Stern provides to U.S. EPA chronology of activities undertaken at Schmidt site.
February 15, 1996	Letter from Stern to OEPA contending that Stern Defendant completed demolition of buildings at Schmidt site.

February 16, 1996	Letter to Stern counsel disputing their contention that all work required under Paragraphs 13 and 14 of the Consent Decree, regarding demolition activity, has been completed.
February 23, 1996	DOJ provides to Stern's counsel set of photographs taken during inspection of Schmidt site demonstrating that site has not been graded.
March 1, 1996	Sterns invoke dispute resolution clause of Consent Decree.
March 15, 1996	Letter from U.S. to Stern confirming agreement to extend the period for U.S. to respond to Stern's letter invoking dispute resolution provision of Consent Decree.
April 11, 1996	Letter from U.S. to Stern requesting consent to an additional 15 day extension in order to determine whether East Ohio Gas Co. believes that structure housing gas regulator can remain on the property.
April 16, 1996	East Ohio gas informs DOJ that building housing underground gas pipes can be demolished.
April 23, 1996	Letter to Stern confirming agreement to extend the period for U.S. to respond to Stern's letter invoking dispute resolution provision of Consent Decree.
May 31, 1996	" "
June 28, 1996	" "
July 26, 1996	" "
September 3, 1996	" "
October 3, 1996	DOJ, U.S. EPA and Stern counsel meet to discuss PCB remediation project at Schmidt site.
	U.S. EPA expresses dissatisfaction with pace of PCB clean-up.
	Stern's counsel discusses defenses to stipulated penalty sought by U.S. government for violations of Decree.
	Stern's counsel agrees to get back to U.S. EPA with revised PCB clean-up approach in order to expedite completion date.

October 8, 1996 Letter to Stern's counsel to reiterate U.S.'s position that Sterns must submit quarterly reports "for the duration of the Consent Decree." Decree at paragraph 18.

October 11, 1996 Response from Stern's counsel that quarterly reports are no longer due to the U.S. EPA pursuant to Decree. Stern further invokes dispute resolution clause of Consent Decree regarding U.S.'s interpretation that Sterns need to comply with quarterly reporting requirements.

October 11, 1996 Sterns submit Quarterly Report to U.S. EPA regarding status of asbestos removal at site for period:
July 1 - September 30, 1996
February 9 - March 31, 1996
April 1 - June 30, 1996

October 25, 1996 DOJ requests Stern's counsel to provide any documents that would support Stern's narrow interpretation of Paragraph 13 of Consent Decree regarding demolition of facility.

October 29, 1996 DOJ participates on conference call with City of Cleveland Law Department to explain that CAA decree is limited to asbestos and demolition - not PCBs and underground storage tanks.

November 25, 1996 Letter to Kendall Moore, U.S. EPA, from Tim Basilone, Stern's newly hired PCB consultant, regarding December 4, 1996 meeting in Chicago re PCB remediation at Schmidt site.

December 4, 1996 Stern's PCB contractor and Rick Stern meet with Kendall Moore in Chicago to discuss alternative PCB remediation at Schmidt site, other than current excavation method.

December 1996 Letter from Kendall Moore to Rick Stern requesting rigorous sampling survey characterizing the extent of PCB contamination at the site in order to evaluate alternate remediation method.

January 6, 1997 U.S. request for extension to respond to Stern's letter invoking dispute resolution provision of Consent Decree.

January 23, 1997 Letter from Tony Restaino, Chief, Pesticides and Toxics Enforcement Section, U.S. EPA, to Rick Stern. U.S. EPA is still waiting for sample results Stern's stated would be provided to U.S. EPA by mid-December. EPA advises Stern of its exposure to civil penalties under Section 16 of TSCA.

January 19, 1997 Pre-meeting with U.S. EPA, City of Cleveland Law Department and OEPA to prepare for meeting with Sterns to discuss unacceptable PCB remediation progress and lack of adequate safety measures at the Schmidt site.

January 20, 1997 Three hour meeting with City of Cleveland Law Department, OEPA, U.S. EPA, Rick Stern, Stern's counsel, and Stern's contractor to discuss need to secure Schmidt site and arrive at deadline date for PCB remediation. Stern's agree to begin aggressive remediation the week of February 24, 1997.

U.S. EPA informs Stern that a civil administrative complaint will be issued April 1, 1997 for violations of TSCA.

FROM: SUE PERDUE
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January 30, 1996

Stern defendants invoke force majeure provisions of the consent decree for the third time

February 7, 1996

U.S. requests documentation to support third force majeure claim